

JAN 8 1991

Regional Technical Coordinator
Midwest Region

Assistant Chief Counsel (Income Tax & Accounting)
by the Assistant Branch Chief, Branch 4 CC:IT&A:4

Technical Coordination Report 17,824
Submitted by Mr. Robert D. Cummings
Chicago District Office

Recommending: Amending the bankruptcy statute or the
Internal Revenue Code to allow the IRS
more time to file a claim for taxes
in a bankruptcy proceeding.

The initiator has described a situation where the taxpayer
filed for Chapter 13 bankruptcy protection. When the Service
filed a proof of claim for tax assessment of the section 6672
penalty, the court refused the claim on the basis that the
statutory date for filing a claim had lapsed. The Service's
claim was thus discharged without assessment.

Mr. Cummings suggests that legislation be considered that
would extend the period for the Service to file a claim for tax
assessment in a bankruptcy proceeding. However, Mr. Cummings has
not claimed that the Service is generally having a problem
meeting the statutory time period for making a claim in a
bankruptcy proceeding with respect to many taxpayers. The
problem submitted by Mr. Cummings only relates to a single
experience the Service had with a particular taxpayer.

Legislative suggestions may be forwarded by National Office
personnel to the Director, Legislative Affairs Division.
However, any such legislative suggestion must state with
particularity the following: (1) a title for the change
referencing the proposed suggestion; (2) a short description of
the proposed change; (3) the reason for the change in narrative
form explaining why the change is needed; (4) suggested statutory
language for the proposed change; (5) the administrative
importance of the proposed change, referencing specific studies
relating to the problem if any exist; if no known studies exist,
a statement to that effect should be made; and (6) the name of a
person to contact and a telephone number.

We do not believe that the submission we received from Mr.
Cummings is complete enough for us to satisfy the criteria

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described above for legislative proposals. If it can be demonstrated that the Service is having a time problem meeting the statutory time period for filing a claim in a bankruptcy proceeding with respect to many taxpayers, and that the problem is widespread, then perhaps the legislative proposal described above could be resubmitted at some later time. We would also like to point out that legislative proposals concerning bankruptcy matters made by Service personnel in field offices may be submitted through the appropriate Deputy Regional Counsel (General Litigation) to:

Technical Assistant to the Assistant Chief Counsel (GL:L&R)
Internal Revenue Service (CC:GL)
P.O. Box 7809
Washington, DC 20004-7809

We appreciate Mr. Cummings' interest and initiative in submitting his report; however, we regret that we cannot be more helpful at this time. Copies of this memorandum are enclosed for the District Technical Coordinator, Mr. Cummings, and other interested persons.

Assistant Chief Counsel
(Income Tax and Accounting)

By George Baker
George Baker
Assistant to the Chief, Branch 4

Attachments (4)